REMARKS

Claims 1-2, 5-21, 30 and 31 are currently pending in this application.

The Examiner has rejected original Claims 1, 5, 30 and 31 under 35 U.S.C. § 103(a) as being obvious over Kolsky U.S. Patent No. 5,274,846 ("Kolsky") in view of Herman U.S. Patent No. 4,356,642 ("Herman").

As acknowledged by the Examiner, nowhere does Kolsky disclose or suggest a mat comprising "at least two layers of an air bubble shaped closed cellular material having a flat side and a bubble side; and one or more layers selected from the group of materials consisting of closed cellular polyethylene foam and closed cellular polypropylene foam materials wherein said bubble side of one of said layers of air bubble shaped closed cellular material is positioned to face said bubble side of another of said layers of air bubble shaped closed cellular material" as presently recited in Claims 1 and 30.

Rather Kolsky merely discloses cushions or pads containing either (1) a bubble layer having two layers of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 1); (2) a bubble layer interposed between two layers of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 3); a bubble layer having one layer of a polymeric foam material of either open or closed cell construction thereon (FIG. 4); or two bubble layers wherein the bubble side of both layers are facing upwards (FIG. 11). At no point is it seen where there is any suggestion, motivation or even a hint in Kolsky of forming a mat comprising "at least two layers of an air bubble shaped closed cellular material having a flat side and a bubble side; and one or more layers selected from the group of materials consisting of closed cellular polyethylene foam and closed cellular polypropylene foam materials wherein said

bubble side of one of said layers of air bubble shaped closed cellular material is positioned to face said bubble side of another of said layers of air bubble shaped closed cellular material."

Herman does not cure the deficiencies of Kolsky. Specifically, Small nowhere discloses or suggests a mat comprising "at least two layers of an air bubble shaped closed cellular material having a flat side and a bubble side; and one or more layers selected from the group of materials consisting of closed cellular polyethylene foam and closed cellular polypropylene foam materials wherein said bubble side of one of said layers of air bubble shaped closed cellular material is positioned to face said bubble side of another of said layers of air bubble shaped closed cellular material" as presently recited in Claims 1 and 30.

Rather, Herman discloses a cushioned innersole device to be placed in the inside of footwear for use in routine activities such as walking and can include two air cushion layers each having relatively small, closely spaced air bubbles wherein the bubble side of one layer faces the bubble side of the other layer. Herman further discloses that the air cushion sheet is laminated to a sheet 4 of flexible, easily compressable, *open-cell foam* (see FIG. 2) in order to conform under pressure in use to the surface of the air cushion sheet. Accordingly, the primary goal of the Herman innersole device is to provide a support device containing flexible, easily compressable, open-cell foam which can conform itself to the shape of the foot to distribute the weight of the wearer substantially evenly over the entire supported area. At no point is there any appreciation in Herman of a mat, as set forth in the present claims, comprising at least two layers of an air bubble shaped closed cellular material having a flat side and a bubble side; and one or more layers selected from the group of materials consisting of *closed cellular polyethylene foam and closed cellular polypropylene foam materials* wherein said bubble side of one of said layers of air bubble shaped closed cellular material is positioned to face said bubble side of another of said

layers of air bubble shaped closed cellular material. Accordingly, Herman teaches away from the present invention.

Besides, it is well establish that there must be some teaching, motivation or suggestion to select and combine references relied upon as evidence of obviousness. *In re Lee*, 277 F.3d 1338, 1342-43, 61 USPQ2d 1430, 1433-34 (CAFC 2002). As is the case here, nothing in the disclosure of Herman of air cushion layers laminated with flexible, easily compressable, *open-cell foam* would lead one skilled in the art to modify the mat in Kolsky which provides either (1) a bubble layer having two layers of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 1); (2) a bubble layer interposed between two layers of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 3); (3) a bubble layer having one layer of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 4); or (4) two bubble layers wherein the bubble side of both layers are facing upwards (FIG. 11) and arrive at the presently claimed invention with any expectation of success.

Accordingly, in lacking any disclosure, suggestion or motivation of a mat comprising "at least two layers of an air bubble shaped closed cellular material having a flat side and a bubble side; and one or more layers selected from the group of materials consisting of closed cellular polyethylene foam and closed cellular polypropylene foam materials wherein said bubble side of one of said layers of air bubble shaped closed cellular material is positioned to face said bubble side of another of said layers of air bubble shaped closed cellular material", Claims 1 and 30 are believed to be nonobvious, and therefore patentable, over Kolsky and Herman no matter how these references are considered or combined. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

The Examiner has rejected Claims 6-8 under 35 U.S.C. § 103(a) as being obvious over Kolsky in view of Herman and in view of Small U.S. Patent No. 4,644,592 ("Small").

The deficiencies of Kolsky and Herman discussed above with respect to the rejection of Claim 1 applies with equal force to this rejection. Small does not cure and is not cited as curing the above-noted deficiencies of Kolsky and Herman. Rather, Small is merely cited for its disclosure of a base layer including a low tack adhesive bottom surface and a removable liner releasably attached to the lower surface of the low-tack adhesive.

Since Kolsky, Herman and Small, alone or in combination, do not teach or suggest a mat comprising "at least two layers of an air bubble shaped closed cellular material having a flat side and a bubble side; and one or more layers selected from the group of materials consisting of closed cellular polyethylene foam and closed cellular polypropylene foam materials wherein said bubble side of one of said layers of air bubble shaped closed cellular material is positioned to face said bubble side of another of said layers of air bubble shaped closed cellular material" as generally recited in Claim 1 from which Claims 6-8 ultimately depend, the rejection under 35 U.S.C. §103(a) is believed to be unwarranted and withdrawal of this rejection is respectfully requested.

The Examiner has rejected Claims 9-11 under 35 U.S.C. § 103(a) as being obvious over Kolsky in view of Herman and Small and in view of Taylor U.S. Patent No. 5,028,468 ("Taylor").

The deficiencies of Kolsky, Herman and Small discussed above with respect to the rejection of Claims 1 and 6-8 applies with equal force to this rejection. Taylor does not cure and is not cited as curing the above-noted deficiencies of Kolsky, Herman and Small. Rather, Taylor is merely cited for its disclosure of a mat having anti-static additives.

Since Kolsky, Herman, Small and Taylor, alone or in combination, do not teach or suggest a mat comprising "at least two layers of an air bubble shaped closed cellular material having a flat side and a bubble side; and one or more layers selected from the group of materials consisting of closed cellular polyethylene foam and closed cellular polypropylene foam materials wherein said bubble side of one of said layers of air bubble shaped closed cellular material is positioned to face said bubble side of another of said layers of air bubble shaped closed cellular material" as generally recited in Claim 1 from which Claims 9-11 ultimately depend, the rejection under 35 U.S.C. §103(a) is believed to be unwarranted and withdrawal of this rejection is respectfully requested.

The Examiner has rejected Claim 12 under 35 U.S.C. § 103(a) as being as being obvious over Kolsky in view of Herman and Small and in view of Tricca et al. U.S. Patent No. 4,574,101 ("Tricca").

The deficiencies of Kolsky, Herman and Small discussed above with respect to the rejection of Claims 1 and 6-8 applies with equal force to this rejection. Tricca does not cure and is not cited as curing the above-noted deficiencies of Kolsky, Herman and Small. Rather, Tricca is merely cited for its disclosure of a mat composed of a closed cellular polyethylene foam.

Since Kolsky, Herman, Small and Tricca, alone or in combination, do not teach or suggest a mat comprising "at least two layers of an air bubble shaped closed cellular material having a flat side and a bubble side; and one or more layers selected from the group of materials consisting of closed cellular polyethylene foam and closed cellular polypropylene foam materials wherein said bubble side of one of said layers of air bubble shaped closed cellular material is positioned to face said bubble side of another of said layers of air bubble shaped closed cellular material" as generally recited in Claim 1 from which Claim 12 ultimately depends, the rejection

under 35 U.S.C. §103(a) is believed to be unwarranted and withdrawal of this rejection is respectfully requested.

The Examiner has rejected Claims 2 and 13-16 under 35 U.S.C. § 103(a) as being as being obvious over Kolsky in view of Herman and in view of Taylor.

With respect to Claim 2, the deficiencies of Kolsky and Herman discussed above with respect to the rejection of Claim 1 applies with equal force to this rejection. Taylor does not cure and is not cited as curing the above-noted deficiencies of Kolsky and Herman. Rather, Taylor is merely cited for its disclosure of a mat having anti-static additives.

Since Kolsky, Herman and Taylor, alone or in combination, do not teach or suggest a mat comprising "at least two layers of an air bubble shaped closed cellular material having a flat side and a bubble side; and one or more layers selected from the group of materials consisting of closed cellular polyethylene foam and closed cellular polypropylene foam materials wherein said bubble side of one of said layers of air bubble shaped closed cellular material is positioned to face said bubble side of another of said layers of air bubble shaped closed cellular material" as generally recited in Claim 1 from which Claim 2 ultimately depends, the rejection under 35 U.S.C. §103(a) is believed to be unwarranted and withdrawal of this rejection is respectfully requested.

With respect to Claims 13-16, nowhere does Kolsky disclose or suggest a disposable surgical mat comprising a first layer, a second layer over said first layer, a third layer over said second layer, and a fourth layer over said third layer, said first layer and said third layer each composed of an anti-static air bubble shaped closed cellular material having a flat side and a bubble side, said second layer composed of an anti-static closed cellular polyethylene foam

material, and said fourth layer composed of an anti-static polypropylene closed cellular foam material as presently recited in Claim 13.

Rather, Kolsky merely discloses cushions or pads containing either (1) a bubble layer having two layers of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 1); (2) a bubble layer interposed between two layers of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 3); a bubble layer having one layer of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 4); or two bubble layers wherein the bubble side of both layers are facing upwards (FIG. 11). At no point is it seen where there is any suggestion, motivation or even a hint in Kolsky of forming a mat comprising, *inter alia*, a first layer and a third layer each composed of an anti-static air bubble shaped closed cellular material having a flat side and a bubble side, a second layer composed of an anti-static closed cellular polyethylene foam material between the first and third layers, and a fourth layer composed of an anti-static polypropylene closed cellular foam material over the third layer.

Herman does not cure and is not cited as curing the deficiencies of Kolsky. As discussed above, Herman merely discloses a cushioned innersole device to be placed in the inside of footwear for use in routine activities such as walking and includes two air cushion layers each having relatively small, closely spaced air bubbles with a sheet 4 of flexible, easily compressable, *open-cell foam* between the two air cushion layers (see FIG. 2) in order to conform under pressure in use to the surface of the air cushion sheet. Accordingly, Herman is no more relevant a reference than Kolsky.

Taylor likewise does not cure and is not cited as curing the deficiencies of Kolsky and Herman. Rather, Taylor is merely cited for its disclosure of a mat having anti-static additives.

Besides, it is well establish that there must be some teaching, motivation or suggestion to select and combine references relied upon as evidence of obviousness. *In re Lee*, 277 F.3d 1338, 1342-43, 61 USPQ2d 1430, 1433-34 (CAFC 2002). As is the case here, nothing in Taylor and Herman would lead one skilled in the art to modify the mat in Kolsky which provides either (1) a bubble layer having two layers of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 1); (2) a bubble layer interposed between two layers of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 3); a bubble layer having one layer of a polymeric foam material of either open cell or closed cell construction thereon (FIG. 4); or two bubble layers wherein the bubble side of both layers are facing upwards (FIG. 11) and arrive at the presently recited mat of Claim 13.

Accordingly, in lacking any disclosure, suggestion or motivation of a mat comprising, *inter alia*, "a first layer and a third layer each composed of an anti-static air bubble shaped closed cellular material having a flat side and a bubble side, a second layer composed of an anti-static closed cellular polyethylene foam material between the first and third layers, and a fourth layer composed of an anti-static polypropylene closed cellular foam material over the third layer", Claims 13-16 are believed to be nonobvious, and therefore patentable, over Kolsky, Herman and Taylor no matter how these references are considered or combined. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

The Examiner has rejected Claims 17-21 under 35 U.S.C. § 103(a) as being obvious over Kolsky in view of Herman and in view of Taylor and in view of Small.

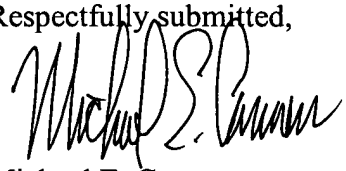
The deficiencies of Kolsky, Herman and Taylor discussed above with respect to the rejection of Claim 13 applies with equal force to this rejection. Small does not cure and is not cited as curing the above-noted deficiencies of Kolsky, Herman and Taylor. Rather, Small is

merely cited for its disclosure of a base layer including a low tack adhesive bottom surface and a removable liner releasably attached to the lower surface of the low-tack adhesive.

Since Kolsky, Herman, Taylor and Small, alone or in combination, do not teach or suggest the presently recited mat of Claim 13 from which Claims 17-21 ultimately depends, the rejection under 35 U.S.C. §103(a) is believed to be unwarranted and withdrawal of this rejection is respectfully requested.

For the foregoing reasons, Claims 1, 2, 5-21, 30 and 31 as presented herein are believed to be in condition for immediate allowance. Such early and favorable action is earnestly solicited.

Respectfully submitted,



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